

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PAUL GARY WILSON, *et al.*,

Plaintiffs,

v.

COLUMBIA GAS TRANSMISSION, LLC,

Defendant/Counterclaimant,

v.

EXCLUSIVE NATURAL GAS STORAGE EASEMENTS, *et al.*,

Counter-Defendants.

Case No. 2:12-cv-1203

Judge Graham

Magistrate Judge Abel

ORDER

On May 17, 2013, Columbia filed a counterclaim against numerous parcels of land and property owners pursuant to Section 717f(h) of the Natural Gas Act, 15 U.S.C. § 717 *et seq.*, seeking to condemn permanent easements in order to conduct its natural gas storage operations pursuant to Federal Energy Regulatory Commission Certificates of Public Convenience and Necessity. Columbia also filed a Rule 71.1 Notice of Condemnation and has begun serving the named counter-defendants.

Counsel for the named plaintiffs ("Plaintiffs' counsel") requested a teleconference with counsel for Columbia Gas Transmission, LLC ("Columbia") and the Court to discuss Plaintiffs' counsel's ability to contact the new counter-defendants to supply them with a copy of the original Complaint, and to advise them (i) that the case had been filed as a putative class action, (ii) that Plaintiffs' counsel would be seeking class certification at the appropriate time, (iii) that Plaintiffs' counsel would be seeking to be appointed as counsel for the class if the motion for class certification is granted, and (iv) that Plaintiffs' counsel was available to represent any

counter-defendants who would so request. This Order sets forth the parties' agreement and the Court's rulings in connection with this teleconference, which took place Tuesday, May 28, 2013.

1. The parties agree, and the Court orders, that Plaintiffs' counsel may contact the named counter-defendants, provided that Plaintiffs' counsel comply with the Ohio Rules of Professional Conduct, including, without limitation, Rules 4.3 and 7.3(a)-(d), and any other applicable rules or legal requirements.

2. Columbia notes that it is in the process of serving the named counter-defendants and estimates that service should be substantially complete by June 14, 2013.

3. Plaintiffs believe the pendency of the counterclaim militates in favor of a prompt motion for class certification. Columbia, on the other hand, believes (i) that nothing about the pending counterclaim requires acceleration of a motion on class certification; (ii) that any class certification motion would be premature before the Court's ruling on the pending motion to dismiss, and (iii) that the parties should adhere to the schedule agreed upon in their Rule 26(f) statement, as reflected in the Court's April 26, 2013 scheduling order. In light of this disagreement, the parties are to attempt to reach agreement on a date for filing a motion for class certification. If the parties are unable to agree upon a schedule for class certification with respect to the reservoir properties involved in the inverse condemnation action and counterclaim, the Plaintiffs may file a motion for class certification at their discretion, and Columbia may oppose said motion on any ground, including (i) that the motion is premature and (ii) that further discovery remains necessary before the Court can rule on any motion to certify a class.

4. The parties shall report back to the Court by no later than June 28, 2013 with respect to (i) their efforts to reach an agreed-upon schedule for motion(s) for class certification; and (ii) the progress of Columbia's efforts to effectuate service upon the named counter-defendants.

5. Nothing in this Order is to be deemed to be a finding as to whether class certification is proper, in the manner proposed by Plaintiffs or otherwise

SO ORDERED.

s/Mark R. Abel
Magistrate Judge Mark R. Abel

Dated: June 12, 2013

APPROVED AS TO FORM:

/s/ Gail C. Ford by LJM with permission
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